

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

920 WRIT PETITION NO.4435 OF 2018

Sanjay Haribhau Waghmare

Petitioner

Versus

The State of Maharashtra and others

Respondent

**WITH
WRIT PETITION NO.4445 OF 2018**

Bhausahab Mahadevrao Ransing

Petitioner

Versus

The State of Maharashtra and others

Respondent

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Mr. N.B. Suryawanshi h/f Mr. S.N. Suryawanshi advocate for the
petitioners

Mr. S.W. Munde, A.G.P. for respondent Nos.1 and 2.

Mr. S.T. Shelke advocate for respondent No.3

CORAM : **RAVINDRA .V. GHUGE, JUDGE**

(Date : 1ST MARCH, 2019)

PER COURT :-

1 These matters were heard at length on 26.2.2019. After the hearing was concluded, it was brought to the notice of the learned A.G.P. that, the impugned order passed by the

Honourable Minister deserves to be set aside and it would be open to the learned A.G.P. to take instructions.

2 It is informed today by the learned A.G.P. that, his instructions are that, this Court may pass an order, as deemed proper. A photo-stat copy of the communication dated 28.2.2019 is placed on record and is marked as Exhibit 'X' for identification.

3 Considering the order that I am passing, I deem it appropriate to avoid adverting to the entire contentions of the learned Advocates for the respective sides, so as to avoid a situation of making observations on the merits of the matter.

4 The factors which need to be considered, in view of the order that I am passing, are as follows:-

a) The petitioners, who were identically placed, had received notices dated 3.9.2017, calling upon them to participate in the hearing scheduled on 10.10.2017 at 2 p.m. before the Honourable State Minister of Rural Development Department.

b) Both these petitioners appeared at the scheduled place and moved applications on 10.10.2017, stating that they desire to tender written notes of submissions and certain documents.

c) They specifically prayed for an adjournment and also prayed for an order on their stay applications, seeking ad interim relief till the decision in the said proceedings.

d) It is undisputed that no order was passed by the Honourable Minister on the said applications dated 10.10.2017.

e) In the memo of the petition, as well as in the Writ Petition Nos.12532 and 12533 of 2017, filed by these petitioners before the learned Division Bench of this Court, it was contended that, these petitioners had put-forth their submissions on ad interim relief and had prayed for ad interim protection. As no orders were passed, they approached the learned Division Bench with the above stated two petitions.

5 I find from the order dated 17.1.2018 that, the learned Division Bench of this Court directed the Honourable Minister to decide the Revision Petitions filed by these petitioners within a period of two months. Until the revisions were decided, it was specifically directed to maintain status-quo, keeping in view that such relief was granted earlier by the said Court on 12.10.2017.

6 The record reveals that the Honourable Minister passed the impugned order dated 17.4.2018, rejecting the Revisions filed by

these petitioners by concluding that, a regular hearing was conducted on 10.10.2017. This aspect is the bone of contention.

7 Learned counsel appearing on behalf of the Zilla Parishad, which is the employing authority of these petitioners, submitted that the Honourable Minister had indeed heard these petitioners on 10.10.2017. Once the hearing was concluded, there was no reason to hold further hearing. It presupposes that these petitioners were heard after considering their applications dated 10.10.2017, praying for time to file written notes of submissions.

8 I do not find that the above stated contentions can be sustained. If a litigant files an application, seeking leave to file written notes of submissions, unless attending circumstances clearly indicate, it cannot be presumed that the oral submissions were advanced and were concluded. In the applications dated 10.10.2017, it is apparent that these applicants stated that they desire to submit their written notes of submissions along with certain case papers and they were only praying for ad interim protection, since the order of their termination was still not implemented by the employer. It is for this first reason that, I find that the impugned order deserves to be quashed and set aside as the hearing on 10.10.2017 was the only date on which the

Honourable Minister and the parties assembled at the appointed place for hearing.

9 The second reason why the impugned order deserves to be set aside is that, these petitioners have specifically averred in their applications dated 10.10.2017 and in their writ petition Nos.12532 and 12533 of 2017 that, they have canvassed their grounds for an interim stay and as the Honourable Minister did not grant such relief on 10.10.2017, that they approached the learned Division Bench of this Court and were granted an order of *status-quo*, immediately on 12.10.2017. It is by virtue of the said order that these petitioners were continued in employment.

10 I do not find from the order passed by the learned Division Bench dated 17.1.2018 that, it was brought to the notice of the Court that the Honourable Minister had subsequently heard the final submissions of the litigating sides. It was not contended that, no orders were passed by the Honourable Minister on the applications dated 10.10.2017. It is quite clear that on one hand, the Honourable Minister claims to have heard the litigating sides finally on 10.10.2017 and on the other hand, passes a final order on 17.4.2018, after six months and one week.

11 In the light of above, the impugned orders of the Honourable Minister dated 17.4.2018 stand quashed and set aside. As these petitioners are already terminated pursuant to the impugned order of Honourable Minister, I do not deem it proper to grant relief of reinstatement in service, since that would amount to granting final relief at an interim stage and more so, when the proceedings are remanded for proper hearing.

12 The litigating sides shall appear before the Honourable Minister on 19.3.2019 at the same venue (where earlier proceedings were scheduled on 10.10.2017) at 2 p.m.. Formal notices are not required to be issued.

13 In view of the above developments as are recorded, there is no question of granting any interim relief. As such, the petitioners shall enter their written notes of submissions along with such documents/papers on which they desire to place reliance. Same applies to the Zilla Parishad and other litigating parties.

14 After the proceedings are closed for orders, the Honourable Minister shall deliver his order within 45 days from the date of the closing of the proceedings.

15 It is made clear that this Court has not made any observation on the merits of the matter and all contentions of the litigating sides are kept open.

**(RAVINDRA .V. GHUGE),
JUDGE**

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